

IT IS ORDERED as set forth below:

Date: November 15, 2023



Wendy L. Hagenau

Wendy L. Hagenau
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CASE NO. 23-54125-WLH
	:	
BYUNG HO KANG and	:	
SAERA YOO,	:	CHAPTER 7
	:	
Debtors.	:	

**ORDER AUTHORIZING SETTLEMENT UNDER RULE 9019 OF THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE**

On October 12, 2023, S. Gregory Hays, as Chapter 7 Trustee ("**Trustee**") for the bankruptcy estates (collectively, the "**Bankruptcy Estate**") of Byung Ho Kang ("**Mr. Kang**") and Saera Yoo ("**Ms. Yoo**" and with Mr. Kang, the "**Debtors**"), filed a *Motion for Order Authorizing Settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure* [Doc. No. 40] (the "**Motion**") and related papers with the Court, seeking an order, among other things,¹

¹ The following is meant only as a summary of the relief requested in the Motion and the terms of the Settlement Agreement. To the extent that the terms of this Order and the terms of the Settlement Agreement conflict, the terms of the Settlement Agreement shall control.

approving a settlement agreement (the “**Settlement Agreement**”) between Trustee and Fountainhead SBF, LLC (“**Fountainhead**” and with Trustee, the “**Parties**”) related to the Trustee’s Avoidance Issues² raised against Fountainhead regarding Transfers by Mr. Kang to Fountainhead of an interest in that certain real property with a common address of 6495 Creekview Circle, Johns Creek, Georgia 30097 (the “**Property**”). In particular, the Parties agree that effective upon the Settlement Approval Order (i.e., this Order) becoming final: (a) the Transfers are avoided under Section 544(a)(3) of the Bankruptcy Code; (b) Trustee recovers the interests in the Property transferred through the Transfers for the benefit of the Bankruptcy Estate under Section 550 of the Bankruptcy Code; and (c) the avoided Transfers are preserved for the benefit of the Bankruptcy Estate under Section 551 of the Bankruptcy Code. In addition, the Proof of Claim [Claim No. 19] of Fountainhead shall be reclassified and allowed as a non-priority, timely filed, general unsecured claim in the amount of \$3,017,180.50 against the Bankruptcy Estate. Finally, the Parties grant broad and general releases to one another. The exact terms of the Settlement Agreement are set forth on Exhibit “A” to the Motion.

On October 16, 2023, Trustee filed a *Notice of Motion for Order Authorizing Settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure; Deadline to Object; and for Hearing* [Doc. No. 42] (the “**Notice**”) regarding the Motion, in accordance with the Third Amended and Restated General Order No. 24-2018, and setting a hearing on the Motion for November 16, 2023 (the “**Hearing**”). Counsel for Trustee certifies that he served the Notice on all requisite parties in interest on October 16, 2023. [Doc. No. 44].

² Capitalized terms not defined in this Order shall have the meanings ascribed to them in the Motion.

No objection to the relief requested in the Motion was filed prior to the objection deadline provided in the Notice and pursuant to the Third Amended and Restated General Order No. 24-2018.

The Court having considered the Motion and all other matters of record, including the lack of objection to the relief requested in the Motion, and, based on the forgoing, finding that no further notice or hearing is necessary; and, the Court having found that good cause exists to grant the relief requested in the Motion, it is hereby

ORDERED that the Motion is **GRANTED**: the Settlement Agreement is approved and its terms are incorporated into this Order. It is further

ORDERED that Trustee may take any other actions necessary to satisfy the terms of the Settlement Agreement. It is further

ORDERED that this Court retains jurisdiction to (i) interpret, implement, and enforce this Order, (ii) resolve any disputes regarding or concerning the Settlement Agreement, and (iii) enter such other and further orders as may be necessary, just, or proper as an aid to enforcement or implementation of this Order.

[END OF DOCUMENT]

Order prepared and presented by:

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Attorneys for Trustee

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Identification of entities to be served:

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